



PUBLIC NOTICE

Federal Communications Commission
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DA 13-1460

June 28, 2013

PETITION FOR ENFORCEMENT OF INTERNATIONAL SETTLEMENTS BENCHMARK RATES ON THE U.S.-FIJI ROUTE

IB Docket No. 13-175

PLEADING CYCLE ESTABLISHED

Comments or Oppositions Due: August 2, 2013

Replies Due: August 12, 2013

The International Bureau seeks comment on a petition filed by AT&T Inc. (“AT&T”) on June 13, 2013, requesting that the Commission enforce its benchmark settlement rate of \$0.19 per minute provided in the Commission’s *Benchmarks Order*¹ with respect to international telephone traffic terminated with Fiji International Telecommunications Limited (“Fintel”), the incumbent international carrier in Fiji.

The Commission found in the *Benchmarks Order* that above-cost accounting rates harm U.S. consumers and may result in market distortions. The Commission adopted the *Benchmarks Order* in 1997 to ensure that U.S. consumers pay reasonable rates for international communications service and to reduce the distortions that may result from above-cost accounting rates. The Commission established a set of benchmark settlement rates to cap the rates that U.S. carriers may pay foreign carriers to terminate international traffic originating in the United States. The Commission then concluded that the benchmark rates were necessary because the settlement rates U.S. carriers pay foreign carriers to terminate U.S.-originated traffic were in most cases substantially above the costs foreign carriers incur to terminate that traffic. A Commission concern was that above-cost settlement rates contribute to the inflated prices paid by U.S. consumers for international services.² The benchmark settlement rates were established primarily based upon countries’ income per capita levels. For carriers in countries classified as lower middle income countries, which includes Fiji, the *Benchmarks Order* requires a settlement rate that does not exceed \$0.19 per minute for traffic terminated after January 1, 2001. Settlement rates with Fiji complied with benchmarks prior to the time it raised rates on November 17, 2011.

In its petition, AT&T states that, beginning in 2011, Fintel began to charge U.S. carriers above benchmark settlement rates. It notes that in the years prior to 2011, average U.S.-Fiji termination rates

¹ *In the Matter of International Settlement Rates*, IB Docket No. 96-261, Report and Order, FCC 97-280, 12 FCC Rcd 19806, 19904-05, ¶ 216 (1997) (*Benchmarks Order*); Report and Order on Reconsideration and Order Lifting Stay, 14 FCC Rcd 9256 (1999) (*Benchmarks Reconsideration Order*); aff’d sub nom. *Cable & Wireless P.L.C. v. FCC*, 166 F.3d 1224 (D.C. Cir. 1999).

² See *Benchmarks Reconsideration Order*, 14 FCC Rcd at 9256, ¶ 3-4.

were in the range of \$0.16-\$0.18 per minute. AT&T states that, in 2010, the Fiji Commerce Commission required all international traffic terminated in Fiji to pay a minimum rate of approximately \$0.165 per minute. Prior to November 17, 2011, Fintel terminated AT&T's U.S.-Fiji traffic for \$0.165 per minute. On November 7, 2011, the Fiji Commerce Commission increased the minimum termination rate for inbound international traffic from \$0.165 to \$0.22 per minute. On November 8, 2011, Fintel notified AT&T that it would raise termination rates for U.S.-Fiji traffic to \$0.22 per minute on November 17, 2011.

AT&T further states that it has been attempting, but has been unable, to negotiate settlement rates with Fintel that would continue to comply with the *Benchmarks Order*. AT&T maintains that Fintel's action violates the Commission's benchmarks policies and requests that the Commission enforce the *Benchmarks Order* on the U.S.-Fiji route by requiring all U.S. carriers to pay Fintel rates for U.S.-Fiji traffic that do not exceed the \$0.19 per minute benchmark.

EX PARTE STATUS OF THIS PROCEEDING

Pursuant to section 1.1200(a) of the Commission's rules,³ the Commission may adopt modified or more stringent *ex parte* procedures in particular proceedings if it finds that the public interest so requires. We announce that this proceeding shall be treated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules.⁴

Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with section 1.1206(b). In proceedings governed by section 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.*, .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

GENERAL INFORMATION

Interested parties must file comments or oppositions to the petition no later than **August 2, 2013**. Replies to such comments or oppositions must be filed no later than **August 12, 2013**. All filings concerning matters referenced in this Public Notice should refer to **DA 13-1460, IB Docket No. 13-175**.

³ 47 C.F.R. § 1.1200(a) (2011).

⁴ 47 C.F.R. §§ 1.1200 *et seq.*

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: <http://fjallfoss.fcc.gov/ecfs2/>.
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty).

Additionally, filers may deliver courtesy copies by email or facsimile to the following Commission staff:

- (1) James Ball, Policy Division, International Bureau, at James.Ball@fcc.gov or (202) 418-2824 (facsimile);
- (2) David Krech, Policy Division, International Bureau, at David.Krech@fcc.gov or (202) 418-2824 (facsimile);
- (3) Kimberly Cook, Policy Division, International Bureau, at Kimberly.Cook@fcc.gov or (202) 418-2824 (facsimile);
- (4) Mark Uretsky, Policy Division, International Bureau, at Mark.Uretsky@fcc.gov or (202) 418-2824 (facsimile).

For further information, contact James Ball, Policy Division, International Bureau, at 202-418-0427 or David Krech, Policy Division, International Bureau, at 202-418-7443.

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